



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2005 JAN 26 P 3:25

HEARINGS OFFICE

**BOARD OF MASSAGE THERAPY  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII**

In the Matter of the Massage	)	MAS 2001-43-L
Establishment License and the	)	
Massage Therapist License of	)	BOARD'S FINAL
	)	ORDER
KIL CHA YI, DBA LISA'S THERAPY	)	
MASSAGE AKA LISA'S THERAPEUTIC	)	
MASSAGE, AND LISA'S THERAPIST	)	
MASSAGE,	)	
	)	
Respondent.	)	

**BOARD'S FINAL ORDER**


On October 1, 2004, the duly appointed Hearings Officer submitted his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter to the Board of Massage Therapy ("Board"). Copies of the Hearings Officer's recommended decision were also sent to the parties. Although the parties were provided an opportunity to file exceptions, no exceptions were filed.

Upon review of the entire record of these proceedings, the Board adopts the Hearings Officer's recommended decision as the Board's Final Order. Accordingly, the Board finds and concludes that the preponderance of the evidence established that Respondent Kil Cha Yi, dba Lisa's Therapy Massage aka Lisa's Therapeutic Massage, and Lisa's Therapist Massage ("Respondent") violated Hawaii Revised Statutes ("HRS") §§452-24(a)(1), (5), (6) and (9); HRS §436B-19(14) and (17); and Hawaii Administrative Rules §§16-84-19(1) and (5).


Accordingly, for the violations found, the Board orders that Respondent's massage establishment and massage therapist licenses shall be revoked and that Respondent immediately

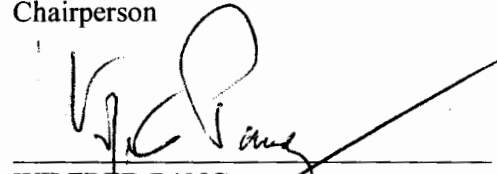
submit all indicia of licensure as a massage establishment and massage therapist in the State of Hawaii to the Executive Officer of the Board.


DATED: Honolulu, Hawaii, JAN 26 2005.

  
EMY M. YAMAUCHI-WONG  
Vice-Chairperson

\_\_\_\_\_  
LLOYD SODETANI  
Board Member

  
MICHELLE TAKEMOTO  
Chairperson

  
WILFRED PANG  
Board Member

  
VICKI VON STROHEIM-~~SEAY~~  
Board Member



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2004 OCT -1 A 10: 56

BOARD OF MASSAGE THERAPY  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Massage	)	MAS 2001-43-L
Establishment License and the	)	
Massage Therapist License of	)	HEARINGS OFFICER'S
	)	FINDING OF FACTS,
KIL CHA YI, DBA LISA'S THERAPY	)	CONCLUSIONS OF LAW,
MASSAGE AKA LISA'S THERAPEUTIC	)	AND RECOMMENDED
MASSAGE, AND LISA'S THERAPIST	)	ORDER
MASSAGE,	)	
	)	
Respondent.	)	
	)	

HEARINGS OFFICER'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

I. INTRODUCTION

On March 5, 2004, the Department of Commerce and Consumer Affairs, through its Regulated Industries Complaints Office ("Petitioner"), filed a petition for disciplinary action against the massage establishment and massage therapist licenses of Kil Cha Yi, dba Lisa's Therapy Massage aka Lisa's Therapeutic Massage, and Lisa's Therapist Massage ("Respondent"). The matter was duly set for hearing, and the notice of hearing and pre-hearing conference was transmitted to the parties.

On July 19, 2004, the parties submitted Stipulated Facts and Entry of Exhibits. Respondent, through her attorney, also informed the Hearings Officer that while she did not intend to contest the charges brought against her by Petitioner, she did intend to address the question of sanctions at the hearing.

On August 10, 2004, the hearing in the above-captioned matter was convened by the undersigned Hearings Officer pursuant to Hawaii Revised Statutes ("HRS") Chapters

91, 92 and 452. Petitioner was represented by its attorney, Tammy K. Kaneshiro, Esq. Respondent was represented by her attorney, Dennis Jung, Esq.

Having reviewed and considered the evidence and arguments presented at the hearing, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law and recommended order.

## II. FINDINGS OF FACT

The Hearings Officer adopts the factual representations set forth in the Stipulated Facts and Entry of Exhibits filed herein on July 19, 2004 as the Hearings Officer's Findings of Fact.

## III. CONCLUSIONS OF LAW

Petitioner has charged Respondent with violating the following provisions of the HRS and the Hawaii Administrative Rules ("HAR"):

**§452-24 Disciplinary actions.** (a) In addition to any other actions authorized by law, the board may take disciplinary action against any licensee, including, but not limited to, revocation, suspension, fine, or a combination thereof, or may refuse to grant or renew a license for any cause authorized by law, including but limited to the following:

(1) Procuring a license through fraud, misrepresentation, or deceit or permitting an unlicensed person to perform activities which require a license under this chapter;

\* \* \* \*

(5) Professional misconduct, gross carelessness, or manifest incapacity in the practice of massage;

(6) Violating this chapter or the rules adopted pursuant thereto;

\* \* \* \*

(9) Making a false statement on any document submitted or required to be filed by this chapter; or

\* \* \* \*

**§436B-19 Grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses.** In addition to any other acts or

conditions provided by law, the licensing authority may refuse to renew, reinstate or restore or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

\* \* \* \*

(14) Criminal conviction, whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of the licensed profession or vocation;

\* \* \* \*

(17) Violating this chapter, the applicable licensing laws, or any rule or order of the licensing authority.

\* \* \* \*

§16-84-19 Suspension and revocation of licenses. Any establishment or an out-call massage service license, a principal massage therapist registration, a massage therapist license, or an apprentice permit may be suspended or revoked upon any one of the following grounds:

(1) Falsification or misrepresentation in the application for a license, registration, or permit;

\* \* \* \*

(5) Violation of any law or rule concerning or affecting the practice of massage, including any provision of chapter 452, HRS, or this chapter;

A careful review of the evidence presented leads the Hearings Officer to conclude that Petitioner has proven by a preponderance of the evidence each of the foregoing violations alleged against Respondent.

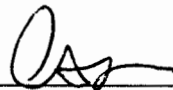
#### IV. RECOMMENDED ORDER

Based on the foregoing findings and conclusions, the Hearings Officer recommends that the Board of Massage Therapy ("Board") find and conclude that the preponderance of the evidence established that Respondent violated HRS §§452-24(a)(1), (5), (6) and (9); HRS §436B-19(14) and (17); and HAR §§16-84-19(1) and (5).

Respondent urges the Hearings Officer to consider recommending a sanction other than revocation of license. Toward that end, Respondent cites her age, the fact that massage therapy is the only skill she has, and her past willingness to provide massage therapy to the elderly for no charge, as mitigating factors. In addition, Respondent submitted the findings of a polygraph examination which appears to support her contention that she relied on another individual in completing the various license applications. These considerations, however, must be weighed against the seriousness of the charges established in this case. The Hearings Officer also considers as significant Respondent's record of prior complaints against her license as well as her criminal history, which include charges of professional misconduct, unlicensed activity, bribery and prostitution.

Accordingly, for the violations found, the Hearings Officer recommends that Respondent's massage establishment and massage therapist licenses be revoked and Respondent be ordered to immediately submit all indicia of licensure as a massage establishment and massage therapist in the State of Hawaii to the Executive Officer of the Board.

DATED at Honolulu, Hawaii: OCT 1 2004



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CRAIG H. UYEHARA  
Administrative Hearings Officer  
Department of Commerce  
and Consumer Affairs